

**JOINT STATEMENT OF COMMISSIONERS
KATHLEEN Q. ABERNATHY AND JONATHAN S. ADELSTEIN**

Re: Federal-State Joint Board on Universal Service

Through this order we address the core of our federal universal service program by determining those most essential services that warrant funding. Our list of supported services establishes a baseline of communications services for the American public, no matter their income or location. Our still-difficult task was made easier by the valuable contribution of the Federal-State Joint Board on Universal Service, whose Recommended Decision provided critical guidance and formed the basis of our decision. For this contribution, we thank our colleagues on the Federal-State Joint Board.

We write this joint statement as colleagues on the Joint Board to discuss two of the more difficult issues addressed in this order. The first concerns the proposal to require eligible telecommunications carriers (ETCs) to provide equal access to providers of long distance services. The second concerns the proposal to add advanced services to the list of supported services.

With respect to equal access, we support the decision to consider this issue as part of the *Portability Proceeding* pending before the Joint Board. That rulemaking examines the rules relating to the impact of funding competitive ETCs in rural areas. One of the principal issues on which the Joint Board has sought comment is whether the Commission should alter the manner in which competitive ETCs receive universal service support. We believe that commenters have raised valid concerns about the “identical support” rule, and many of their arguments intersect with positions advanced in support of an equal access requirement. For example, several parties persuasively argue that competitive ETCs should receive funding based on their own costs, rather than the incumbent LEC’s costs. If the Joint Board were to recommend and the Commission were to adopt such a proposal, that would address several of the arguments advanced in favor of adding equal access to the list of supported services.¹

We are committed to addressing any inappropriate disparities in treatment of incumbent and competitive ETCs. We write jointly to emphasize that the Joint Board’s top priority is to provide a recommended decision in the *Portability Proceeding* as expeditiously as possible and we are determined to move forward quickly. The stresses on the universal service fund created by the increase in support provided to competitive and incumbent ETCs are of critical importance. We must ensure that companies that have traditionally invested in infrastructure to serve rural and high cost areas are not

¹ Parties have advanced arguments in favor of an equal access obligation that extend beyond the alleged competitive disparities produced by our rules. For example, in support of their argument that equal access is essential to education, public health, and public safety, proponents argue that it provides consumers with a valuable benefit — the ability to choose long distance providers. Others stress that any decision on supported services should not inadvertently raise the costs to the universal service fund without commensurate benefits to consumers. Our consideration of these issues can only be improved by considering the record developed in the *Portability Proceeding*.

subject to a framework that unintentionally undercuts their ability to perform their critical universal service function. We also should proceed swiftly in light of the fact any grants of ETC status during the pendency of that proceeding will be subject to any new or modified rules. Moreover, we are concerned that the ETC designation process — and in particular the public interest analysis — has been conducted in an inconsistent and sometimes insufficiently rigorous manner. Providing federal guidance on these issues will afford regulatory certainty to competitive ETCs, as well as incumbent LECs. It will also help stabilize the funding mechanism. We have accordingly organized a public forum, to be held on July 31, 2003, which will help the Joint Board further develop the record, ask questions of key players, and hopefully help build consensus on appropriate rule changes.

We also wish to note that our decision to refrain from adding advanced services to the list of supported services should in no way cast doubt on the importance of such services to rural America. Based on the record before us, and in accordance with the recommendation of the Joint Board, the Commission has found that a substantial majority of residential consumers have not yet subscribed to advanced services and that such services, while increasingly important, do not yet meet the standard set out in section 254(c)(1). We note that Congress has made clear that universal service is an evolving level of telecommunications services, so it is important that we adopt a framework that permits our universal service programs to reflect advances in the marketplace. We also reaffirm that ETCs will have access to universal service support for facilities (such as loops) that are used to provide both supported services and unsupported services. The Joint Board and the Commission have repeatedly emphasized that the absence of direct support for advanced services does not impose any barrier to the use of universal service funding to upgrade and maintain integrated facilities capable of supporting advanced telecommunications networks. This policy faithfully advances Congress's core goal of ensuring access to advanced telecommunications and information services throughout the nation.

In closing, we reiterate our thanks to our Joint Board colleagues for their valuable contributions to date, and we look forward to working together and with the rest of the Joint Board on the critical issues pending in the *Portability Proceeding*.